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Co-Counsel for Marc S. Kirschner, as Litigation Trustee of the Highland Litigation Sub-Trust

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹
Reorganized Debtor.

Chapter 11

Case No. 19-34054-s gj11

MARC S. KIRSCHNER, AS LITIGATION
TRUSTEE OF THE LITIGATION SUB-TRUST.

Plaintiff.

Adv. Pro. No. 21-03076-sgj

JAMES D. DONDERO; MARK A. OKADA;
SCOTT ELLINGTON; ISAAC LEVENTON;
GRANT JAMES SCOTT III; STRAND
ADVISORS, INC.; NEXPPOINT ADVISORS,
L.P.; HIGHLAND CAPITAL MANAGEMENT
FUND ADVISORS, L.P.; DUGABOY
INVESTMENT TRUST AND NANCY
DONDERO, AS TRUSTEE OF DUGABOY
INVESTMENT TRUST; GET GOOD TRUST
AND GRANT JAMES SCOTT III, AS
TRUSTEE OF GET GOOD TRUST; HUNTER
MOUNTAIN INVESTMENT TRUST; MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1 AND LAWRENCE
TONOMURA AS TRUSTEE OF MARK &
PAMELA OKADA FAMILY TRUST –
EXEMPT TRUST #1; MARK & PAMELA

**APPLICATION FOR
ENTRY OF DEFAULT
AGAINST DEFENDANTS
MASSAND CAPITAL, LLC
AND MASSAND
CAPITAL, INC.
PURSUANT TO RULE
55(a) OF THE FEDERAL
RULES OF CIVIL
PROCEDURE**

¹ The last four digits of the Reorganized Debtor's taxpayer identification number are (8357). The Reorganized Debtor is a Delaware limited partnership. The Reorganized Debtor's headquarters and service address are 100 Crescent Court, Suite 1850, Dallas, TX 75201.

OKADA FAMILY TRUST – EXEMPT TRUST #2 AND LAWRENCE TONOMURA IN HIS CAPACITY AS TRUSTEE OF MARK & PAMELA OKADA FAMILY TRUST – EXEMPT TRUST #2; CLO HOLDCO, LTD.; CHARITABLE DAF HOLDCO, LTD.; CHARITABLE DAF FUND, LP.; HIGHLAND DALLAS FOUNDATION; RAND PE FUND I, LP, SERIES 1; MASSAND CAPITAL, LLC; MASSAND CAPITAL, INC.; AND SAS ASSET RECOVERY, LTD.,

Defendants.

THE LITIGATION TRUSTEE'S MOTION FOR CLERK'S ENTRY OF DEFAULT

To the Clerk of the United States Bankruptcy Court for the Northern District of Texas:

Plaintiff Marc S. Kirschner (the “Litigation Trustee”), as Litigation Trustee of the Litigation Sub-Trust (the “Trust”) established pursuant to the Fifth Amended Plan of Reorganization (the “Plan”) of Highland Capital Management L.P. (“HCMPL” or the “Reorganized Debtor”) (Bankruptcy Docket No. 1472), through his undersigned counsel, hereby requests pursuant to Rule 7055-1(b) of the Local Bankruptcy Rules for the Northern District of Texas and Rule 55(a) of the Federal Rules of Civil Procedure, made applicable by Rule 7055 of the Federal Rules of Bankruptcy Procedure, that the Clerk enter the default of Defendants Massand Capital, LLC and Massand Capital, Inc. (collectively, the “Massand Defendants”), for failure to plead or otherwise defend against the action in a timely manner.

(1) As shown by the proofs of service previously filed with this Court, the Massand Defendants were served pursuant to Rule 4 of the Federal Rules of Civil Procedure on May 20, 2022 (Docket No. 160).

(2) The applicable time limit for the Massand Defendants to appear or otherwise respond to this action, according to agreement between the parties and related orders by this Court, expired on July 11, 2022.

The Massand Defendants have failed to plead or otherwise respond to the Amended Complaint. This request is based on the attached Declaration of Plaintiff’s Attorney Deborah J. Newman.

Dated: August 10, 2022
Dallas, Texas

Respectfully submitted,
SIDLEY AUSTIN LLP

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-and-

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Counsel for the Litigation Trustee

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via electronic mail via the Court's ECF system to parties authorized to receive electronic notice in this case on August 10, 2022.

/s/ Juliana L. Hoffman
Juliana L. Hoffman